

Application No.: 10/656,481

Docket No.: TOW-041RCE

REMARKS

Applicants amend independent claim 1, cancel claim 5, and add new independent claim 6. Claims 1-4 and 6 are currently pending, of which claims 1 and 6 are independent. No new matter has been introduced. Support for the claim amendments to claim 1 and for new claim 6 can be found in Applicants' Figure 2. Applicants respectfully submit that the pending claims are in condition for allowance.

I. Telephone Interview with the Examiner

Applicants thank the Examiner for the telephone interview conducted with the Examiner on May 7, 2007. The topic of the interview focused on the 35 U.S.C. §103(a) rejections of claims 1-5 in view of United States Patent Publication Number 2001/0051294 to Inoue (hereafter "Inoue") in view of United States Patent Publication Number 2002/0119358 to Rock (hereafter "Rock"). The subject matter of the claimed invention and the Inoue and Rock references was discussed. The Examiner appeared to indicate that the specific arrangement of the claimed invention as illustrated in Figure 2 does not read on the Inoue and Rock references.

II. Claim Amendments

In view of the interview with the Examiner, Applicants amend independent claim 1 to further distinguish it from the Inoue and Rock references. In the foregoing claim amendments, Applicants amend claim 1 to recite:

"a seal member having an outer portion interposed between and contacting said first metal separator and said electrolyte, and an inner portion interposed between and contacting the first metal separator and a planar portion of the other gas diffusion layer,
wherein said inner portion of the seal member includes a flow field wall, said flow field wall defining one portion of power generation areas of said electrodes,"

No new matter has been added. Applicants believe that the above claim amendments address the issues raised by the Examiner during the interview, and assert that the amendments

Application No.: 10/656,481

Docket No.: TOW-041RCE

further distinguish Applicants' claims from the Inoue and Rock references, as will be explained below.

III. Rejection of Claims 1 and 5 under 35 U.S.C. §112

Claims 1 and 5 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Regarding claim 1, the Examiner points to "a seal member interposed between said outer marginal region and said first metal separator, the seal member being in contact with said other gas diffusion layer," as recited in original claim 1, and alleges that "the parts that applicants are referring to cannot come in contact with one another." See Office Action, pages 2-3. In the foregoing claim amendments, Applicants amend claim 1 to clarify the scope of the invention. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph, rejection of claim 1.

Regarding claim 5, the Examiner alleges that "it is unclear which surface of the separator applicants are referring to faces the electrolyte electrode assembly (EEA)." See Office Action, pages 3-4. In the foregoing claim amendments, Applicants cancel claim 5. As such, the 35 U.S.C. §112, second paragraph, rejection of claim 5 is rendered moot.

IV. Rejection of Claims 1-5 under 35 U.S.C. §103

Claims 1-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Inoue reference in view of the Rock reference. Applicants respectfully submit that the Inoue and Rock references, alone or in any combination, fail to teach or suggest at least the following feature of amended independent claim 1: "a seal member having an outer portion interposed between and contacting said first metal separator and said electrolyte, and an inner portion interposed between and contacting the first metal separator and a planar portion of the other gas diffusion layer."

The Inoue reference teaches a fuel cell system including seal member S1 that is positioned between separator 14 and MEA 18. Seal member S2 is positioned between separator 14 and separator 16. Neither seal member S1 nor seal member S2 contacts gas diffusion layer 24 or 26. See Inoue, Figure 2. In fact, the Inoue reference teaches the prior art system that is shown in Figure 6 of the instant application. In contrast, Applicants' claim 1 requires a seal

Application No.: 10/656,481

Docket No.: TOW-041RCE

member having an inner portion interposed between and contacting the first metal separator and *a planar portion of the other gas diffusion layer*.

In view of the foregoing arguments, Applicants respectfully submit that the Inoue reference does not teach or suggest each and every feature of amended independent claim 1. The addition of the Rock reference fails to cure this deficiency.

The Rock reference teaches a fuel cell system that has seal members in contact with a membrane of an MEA and a bipolar plate. See Rock, Figures 10-14. For example, seal 108 and seal 105 are in contact with the membrane of MEA 106 and bipolar plate 104 or bipolar plate 110. However, the Rock reference does not teach or suggest that the seal is in contact with a gas diffusion layer. In contrast, Applicants' claim 1 requires a seal member having an inner portion interposed between and contacting the first metal separator and *a planar portion of the other gas diffusion layer*.

In view of the foregoing arguments, Applicants respectfully submit that the Inoue and Rock references, alone or in any combination, fail to teach or suggest each and every feature of amended independent claim 1. As such, Applicants respectfully submit that claim 1 defines over the art of record. Applicants respectfully request reconsideration and withdrawal of the U.S.C. §103(a) rejection of claim 1.

Claims 2-4 depend upon claim 1, and add separate and patentable limitations to claim 1. As such, for this and the reasons set forth above, Applicants respectfully submit that the dependent claims also define over the art of record.

V. New Claim

In the foregoing claim amendments, Applicants add new claim 6. No new matter has been introduced. New claim 6 recites the patentable limitation discussed above in connection with the U.S.C. §103(a) rejection of claim 1. As such, for this and the reasons set forth above, Applicants respectfully submit that new claim 6 defines over the art of record.

Application No.: 10/656,481

Docket No.: TOW-041RCE


CONCLUSION

In view of the foregoing amendments and arguments, Applicants believe the pending application is in condition for allowance.

Any fee due is authorized to be charged to our Deposit Account No. 12-0080, under Order No. TOW-041 from which the undersigned is authorized to draw. If the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely.

Dated: May 29, 2007

Respectfully submitted,

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